

REMARKS

Applicant submits herewith a revised amendment with the deleted text correctly indicated by double-bracketing, specifically claims 14 and 15.

Applicant respectfully requests reconsideration. Claims 14 and 15 were previously pending in this application. Claims 14 and 15 have been amended. New claims 50 and 51 have been added. Support for new claims 50 and 51 may be found on page 5, line 32 – page 6, line 4 and on page 43, lines 1-10 of the application as filed. As a result, claims 14, 15, 50, and 51 are pending with claims 14 and 50 being independent claims. No new matter has been added.

Summary of Telephone Conference with Examiner

Applicant's representatives would like to thank the Examiner for discussing the Office Action and the pending claims by telephone on July 18, 2005 and July 27, 2005. The substance of the discussion is reflected in the set of amended claims.

Rejections under 35 U.S.C. §112

The Examiner rejected claim 15 under 35 U.S.C. §112, first paragraph as failing to comply with the enablement requirement. According to the Examiner, the specification does not provide a sufficient amount of guidance, direction, or exemplification to enable one of ordinary skill in the art to make or use a pharmaceutical comprising SEQ ID NO.: 9. The Examiner also asserted that undue experimentation is required to practice the invention as a pharmaceutical.

Claim 15 has been amended to overcome the rejection. Accordingly, withdrawal of the rejection of claim 15 under 35 U.S.C. §112, first paragraph is respectfully requested.

Rejections Under 35 U.S.C. §102

The Examiner rejected claims 14 and 15 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,968,735.

Claim 14 has been amended to overcome the prior art. Claim 15 depends from claim 14. Accordingly, withdrawal of this rejection is respectfully requested.

Previous response to Restriction Requirement

In the response to the Restriction Requirement mailed on October 29, 2004, Applicant made a species election with the understanding that it was required for searching purposes only and that all species will be considered should the generic claim be found to be allowable. 37 C.F.R. §1.141(a).

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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